

Before the  
Federal Communications Commission  
Washington, D.C. 20054

RECEIVED  
OCT 13 1993  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Reexamination of the Policy )  
Statement on Comparative )  
Broadcast Hearings )

GC Docket No. 92-52

**Comments of the United States Catholic Conference**

The United States Catholic Conference ("USCC" or "Conference") submits the following comments in the above captioned *Further Notice of Proposed Rulemaking* ("Notice"), released August 12, 1993, by the Federal Communications Commission ("FCC").

**Interest of the United States Catholic Conference**

The USCC is a nonprofit organization organized under the laws of the District of Columbia whose members are active Catholic bishops in the United States. The USCC advocates and promotes the pastoral teachings of the Bishops in such diverse areas as education, family life, health care, social welfare, immigration, civil rights, the economy, housing, and communications. FCC rulemakings affecting the responsiveness of local broadcast facilities to the needs of the local communities they are licensed to serve are of particular importance to the USCC. This Notice requests public comment on the FCC's proposal to revive the so-called "anti-trafficking" rule requiring broadcasters to hold the license awarded to them following a comparative hearing for at least three years. The USCC supports imposition of a new anti-trafficking rule, but seeks one which requires a broadcaster to hold its license until its next renewal, or at least three years, whichever is longer.

**Response to the Notice**

From the first round of comments in this proceeding, the FCC has determined that a mandatory holding period for a broadcast license will deter participation in the broadcasting industry by persons interested only in profiting from a station and then quickly selling a newly issued license. Studies of the content of local television news conducted since the abolition of the anti-trafficking rule show that up to one-half of the local newscast is composed of sensational or "human interest" stories. Berkowitz, *Work Roles and News Selection in Local TV: Examining*

No. of Copies rec'd  
List A B C D E

079

*the Business-Journalism Dialectic*, 37 *Journal of Broadcasting and Electronic Media*, 67, 68 (No. 1, Winter 1993). Pulitzer-prize winning journalist Tom Shales has linked the lack of the anti-trafficking rules with "the larger trend in deteriorating standards - tabloid television, trash TV, whatever one calls it . . . Talk shows proliferate because they are cheap to produce, and trashy talk shows dominate because they're a quick, easy route to big audiences and big bucks." Shales, *Talk Show Rot*, Washington Post, November 18, 1988. Once ratings are boosted and profits appear, the station and its license can be passed along to the next owner. A mandatory holding period for broadcast licenses offers protection to the community. It underlines a fundamental principle of broadcast regulation that award of a license to operate a station in the broadcast spectrum is not the sale of a commodity, but is the public's grant of permission to a licensee to operate in the interest of all segments of the community to which that portion of the spectrum is assigned.

The USCC supports this rationale underlying the FCC's proposal to reimpose an anti-trafficking rule. The USCC suggests, however, that the mandatory holding period be a full license term, or at least three years if a license award resulted from an assignment or transfer of control permitted by the FCC in the midst of a license term. A full license term holding period furthers the longstanding objective of the FCC and Congress to encourage broadcasters to establish ties to a community so that programming will reflect local needs and interests. Allowing for hasty resale of a license calls into question an applicant's commitment to the highest level of service to a community and the expenditure of FCC resources to review that application. The absence of such a rule inevitably requires more FCC regulatory effort and unfortunately results in less public benefit.

As the FCC states in its *Notice*, Congress increased broadcast license terms in 1981 to five years for television and radio licenses to seven years. Congress determined that these terms balanced broadcasters' need for a license period long enough to restrain costs of too-frequent renewal contests before the FCC, but short enough to motivate broadcasters to compile a superior record of performance in the public interest required for renewal of the license at the end of the license term. A hallmark of a licensee's superior service to the public is the devotion of "an adequate amount of time . . . to meet the needs of the community in terms of . . . local interest . . ." *Supplemental Report on Chain Broadcasting* (1941). "[T]he Commission historically has followed a policy of 'localism' as a sound means of promoting the statutory goal of efficient public service." *National Association of Broadcasters v. FCC*, 740 F.2d 1190, 1198 (D.C. Cir. 1984). The full license term was designed to ensure that a licensee had time to know the informational needs of its community and translate those into responsive programs. A commitment to a full license term honors a necessary tie to a community and inspires programs responsive to that community. Congress firmly reiterated the importance of broadcaster's local ties to their communities of license in the 1992 Cable Act. *Cable Television Consumer Protection and Competition Act of 1992*, Pub.L. No. 102-385, 106 Stat. 1460. "A primary objective and benefit of our Nation's system of regulation of television and broadcasting is the local origination of programming. There is substantial government interest in ensuring its continuation. Broadcast stations continue to be an important source of local news and public affairs programming and other local broadcast services critical to an informed electorate." Conf.


Rep. 102-862, 1992 102nd Cong., 2d Sess. 4, reprinted in *U.S. Code. Cong. & Ad. News* 1133, 1239.

Requiring a full license term (or at least three years) for a mandatory holding period is consistent with the FCC's existing policy of awarding short-term renewals under certain circumstances. The FCC has used short term renewals as a means of closely scrutinizing a broadcaster's less than sterling past record. Where a broadcaster has failed to show full compliance with equal employment opportunity rules, for example, the FCC has renewed that broadcaster's license only for one or two years in order to determine if the broadcaster will continue to fall short of FCC policy standards on equal employment opportunities. *Beaumont Branch of The N.A.A.C.P. v. F.C.C.*, 854 F.2d 501, 507 (D.C. Cir. 1988), *Bilingual Bicultural Coalition v. F.C.C.*, 595 F.2d 621, 628 (D.C. Cir. 1978). If the FCC views the shortened license term as a form of punishment, it is inconsistent to require the entity found by the FCC after a comparative hearing to have the superior license application to hold that license for less than a full term.

### Conclusion

An anti-trafficking regulation requiring a licensee to hold its license for a full license term or at least three years if the license was awarded in mid-term, will serve the public interest by encouraging broadcast licensees' ties to the community which will be reflected in programs which serve the community's needs and interests.

Respectfully submitted,



Mark E. Chopko  
General Counsel



Katherine G. Grincewich  
Assistant General Counsel

October 13, 1993